

United States Courts
Southern District of Texas
FILED
February 06, 2025
Nathan Ochsner, Clerk of Court

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

Willis Floyd Wiley
Appellant

Action # **4:25-cv-00645**

City of Houston Texas.
Assistant Police Chief
Kevin Deese and City of
Houston Texas Assistant
Police Chief Ernest Garcia
Appellees

PLAINTIFF WILLIS FLOYD WILEY NOTICE OF REMOVAL
TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

Plaintiff Willis Floyd Wiley, files this his Notice of Removal in the above civil Action number. And in support of said Removal the Plaintiff will show the Honorable Court the following:

I

Local Rule - 81

1. Pursuant to Local Rule 81 for the Southern District of Texas, attached are the Following

Exhibit- 1 September 6,2024 Fourteenth Court of Appeals filing fee notice

Exhibit- 2 September 6, 2024

Fourteenth Court of Appeals notice of court report record do

Exhibit- 3 September 18, 2024

Fourteenth Court of Appeals filing fee's payment notice

Exhibit- 4 September 18,2024 Fourteenth Court of Appeals notice of docking
Statement

Exhibit- 5 October 7,2024 Fourteenth Court of Appeals notice of court reporter
records being received.

Exhibit- 6 October 24,2024 Fourteenth Court of Appeals notice of no Appealable
order

Exhibit- 7 October 30, 2024, Fourteenth Court of Appeals notice of Appellant brief
being file and deadline for the filing of Appellee's brief.

Exhibit- 8 November 18,2024 Appellee's Email to Appellant informing Appellant that
the Appellee's was filing a motion to dismiss for lack of Jurisdiction and untimely notice.

Exhibit- 9 December 17, 2024, Fourteenth Court of Appeals Memorandum opinion,
Judgment and Notice of opinion distribution.

II

STATE COURT ACTION

On September 6, 2024, the Appellant file a notice of appeal, to the Fourteenth Court of Appeals #14-24-00658-CV, because of the 190th Judicial District Court of Harris County, Texas, allowing the defendants to remove civil action case number 202415203 to the United States District Court for the Southern District of Texas in violation Tex. R. Civ. P. 107 (a) (b). The Fourteenth Court of Appeals dismiss appeal case # 14-24-00658-CV on December 17,2024 for lack of subject - matter jurisdiction

III

Grounds for Removal.

Federal Question Jurisdiction

The United States District Court has subject matter Jurisdiction over this matter because the Fourteenth Court of Appeals violated the appellant's Fourteenth Amendment right guaranteed under the Fourteenth Amendment to the United States Constitution. Because of the fourteenth court of appeals dismissal of Appeal Case Number 14-24-00658-CV for lack of subject matter jurisdiction. Over the 190th District court of Harris County, Texas, violation of Tex. R. Civ. P. 107 (a) (b).

IV

Venue

Venue is proper in this district and division because the State Court Action taken in this matter was in Harris County, Texas which is located within the Southern District of Texas, Houston Division. See 28 U.S.C. sec 144 (a). Venue is also proper in this district and division under 28 U.S.C. sec 1443 because this is a civil action for an act under color of authority derived from a law providing for equal rights and because Appellant commenced this proceeding in a State Appeals court in this district and division.

V

Removal is Timely

The Appellant has 30 days to file notice of Removal after the Appellant receives the Appeals court final Judgement, the Fourteenth Court of Appeals of Harris County Texas. File their Final Judgement in this Matter on December 17, 2024, this notice of Removal is filed within 30 days of the Appellant receipt of the Fourteenth Court of Appeals final Judgement and is therefore timely filed under 28 U.S.C. sec 1446(b) (1)

VI

Consent Required

According to the State Appeals Court record there are no other Appellant required to give consent to in this matter. The Appellant have fulfilled all procedural requirements to timely remove the State Appeals Court Action.

VII

Notice Given

Simultaneously with the filing of this removal, notice will be given to Appellee's and all parties who have appeared via their attorneys. Additionally, a copy of this Notice of Removal will be filed with the Clerk of the Fourteenth Court of Appeals in the matter Appeal case # 14-24-00658-CV

Justices

KEN WISE
KEVIN JEWELL
FRANCES BOURLIOT
JERRY ZIMMERER
CHARLES A. SPAIN
MEAGAN HASSAN
MARGARET "MEG" POISSANT
RANDY WILSON



Fourteenth Court of Appeals

301 Fannin, Suite 245
Houston, Texas 77002

FILE COPY

Chief Justice
TRACY CHRISTOPHER

Clerk

DEBORAH M. YOUNG, CLERK OF THE
COURT

PHONE 713-274-2800

Friday, September 6, 2024

Willis Floyd Wiley
258 Cherry Creek Drive
Shepherd, TX 77371
* DELIVERED VIA E-MAIL *

RE: Court of Appeals Number: 14-24-00658-CV
Trial Court Case Number: 2024-15203

Style: Willis Floyd Wiley

v.

Houston Texas Assistant Police Chief Kevin Deese, and Houston Texas Assistant Police Chief Ernest Garcia

The district clerk has advised this court that a notice of appeal was filed in this case. A \$205.00 filing fee is now due by the filing party.

Section 22.201 of the Government Code was amended effective September 1, 2023 to create the Fifteenth Court of Appeals. The Fifteenth Court of Appeals will have exclusive intermediate appellate jurisdiction of certain appeals as defined in Government Code, section 22.220(d), starting September 1, 2024. On September 1, 2024, all cases pending in the First through Fourteenth Courts of Appeals that were filed on or after September 1, 2023, and of which the Fifteenth Court of Appeals has exclusive intermediate appellate jurisdiction, will transfer to the Fifteenth Court of Appeals pursuant to the enabling legislation. Acts 2023, 88th Leg., ch. 459 (S.B. 1045), § 1.15, eff. Sept. 1, 2023. The court requests that parties to a new civil appeal confer and advise the court by letter if your appeal is subject to transfer under the new law.

When multiple notices of appeal from the same judgment or order have been filed by adverse parties, the parties may filing an agreed motion (1) to consolidate the appeals, if more than one cause is opened and (2) to set the number, due dates, and word limits of briefs. It is preferred that the parties agree to a set a word limit that comports with TRAP 9.4(i). Each brief must also comply with TRAP 38.

The appellant(s) must complete and file a docketing statement. See T.R.A.P. 32.1. In accordance with this court's mediation program, appellee(s) must complete and file a mediation docketing statement. Appellant(s) and appellee(s) must file their statements within 10 days of the date the notice of appeal is filed in the trial court. Failure to comply will be deemed an affirmative response to mediation on behalf of the non-filing party. The docketing statement and mediation docketing statement are available on the court's website at www.txcourts.gov/14thCOA.

Pursuant to TRAP 9.1(a), **all attorneys** must provide the Court with a valid e-mail address when submitting any document to the Court. Notices or other communications about this case will be delivered via email. Paper copies of notices or other communications can be obtained by a party upon written request. All computer-generated documents filed with the Court must be in a typeface no smaller than 14-point and include a certificate of compliance stating the word count of the filed document or your document will be rejected. TRAP 9.2 (c)(1).

Sincerely,

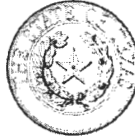
\s\ Mary Zamarron
Deputy Clerk

Exhibit 2

FILE COPY

Justices

KEN WISE
KEVIN JEWELL
FRANCES BOURLIOT
JERRY ZIMMERER
CHARLES A. SPAIN
MEAGAN HASSAN
MARGARET "MEG" POISSANT
RANDY WILSON



Fourteenth Court of Appeals

301 Fannin, Suite 245
Houston, Texas 77002

Chief Justice

TRACY CHRISTOPHER

Clerk

DEBORAH M. YOUNG, CLERK OF THE
COURT

PHONE 713-274-2800

Friday, September 6, 2024

My-Thuy M. Cieslar
Official Court Reporter
190th District Court
201 Caroline, Suite 1204
Houston, TX 77002
* DELIVERED VIA E-MAIL *

Court Reporter, 190th District Court
Harris County Civil Courthouse
201 Caroline, 12th Floor
Houston, TX 77002
* DELIVERED VIA E-MAIL *

RE: Court of Appeals Number: 14-24-00658-CV
Trial Court Case Number: 2024-15203

Style: Willis Floyd Wiley

v.

Houston Texas Assistant Police Chief Kevin Deese, and Houston Texas Assistant Police Chief Ernest Garcia

The trial court clerk has advised this court that a notice of appeal was filed in this case on September 6, 2024.

A post-judgment motion was not filed. Accordingly, if the record has been requested and payment arrangements have been made, the reporter's record is due to be filed in this Court within 60 days after the judgment was signed, or by **Tuesday, October 8, 2024**; Tex. R. App. P. 35.3(b)(3).

All court reporters are required to complete and e-file with the Court an information sheet which is located at <http://www.txcourts.gov/media/662557/court-reporter-info-sheet.pdf>. If no request or payment arrangements have been made, you were not the court reporter in this case, additional court reporters took testimony, or you require an extension of time to file your record, please indicate this information on the form. This information sheet **must** be submitted to the Court within seven days of the date of this notice.

Pursuant to the Tex. R. App. P., Appendix C, Rule 2, all reporter's records must be filed via the court's electronic filing portal.

Sincerely,

\s\ Mary Zamarron
Deputy Clerk

cc: Harris County, District Clerk, Civil Division (DELIVERED VIA E-MAIL)
Willis Floyd Wiley (DELIVERED VIA E-MAIL)
Judge, 190th District Court (DELIVERED VIA E-MAIL)

Exhibit -3

FILE COPY

Justices

KEN WISE
KEVIN JEWELL
FRANCES BOURLIOT
JERRY ZIMMERER
CHARLES A. SPAIN
MEAGAN HASSAN
MARGARET "MEG" POISSANT
RANDY WILSON

**Fourteenth Court of Appeals**

301 Fannin, Suite 245
Houston, Texas 77002

Chief Justice

TRACY CHRISTOPHER

Clerk

DEBORAH M. YOUNG, CLERK OF THE
COURT
PHONE 713-274-2800

Wednesday, September 18, 2024

Willis Floyd Wiley
258 Cherry Creek Drive
Shepherd, TX 77371
* DELIVERED VIA E-MAIL *

RE: Court of Appeals Number: 14-24-00658-CV
Trial Court Case Number: 2024-15203

Style: Willis Floyd Wiley

v.

Houston Texas Assistant Police Chief Kevin Deese, and Houston Texas Assistant Police
Chief Ernest Garcia

The case was filed in this Court on Friday, September 6, 2024. To date, our records show that **Appellant** has neither established indigence nor paid the appellate filing fee. See TEX. R. APP.P.5 and TEX. R. APP.P.20.1; Order Regarding Fees Charges in Civil Cases in the Supreme Court and the Courts of Appeals, Misc. Docket No. 15-9158 (Tex. Aug. 28, 2015); TEX. GOV'T CODE ANN. §§ 51.207 and 51.851(b).

Unless appellant pays the appellate filing fee on or before **Monday, September 30, 2024**, the appeal is subject to dismissal without further notice. See TEX. R. APP. P. 42.3.

Sincerely,

/s/ Christle Herrera
Deputy Clerk

Exhibit - 4**Justices**

KEN WISE
KEVIN JEWELL
FRANCES BOURLIOT
JERRY ZIMMERER
CHARLES A. SPAIN
MEAGAN HASSAN
MARGARET "MEG" POISSANT
RANDY WILSON

**Chief Justice**

TRACY CHRISTOPHER

Clerk

DEBORAH M. YOUNG, CLERK OF THE
COURT
PHONE 713-274-2800

Fourteenth Court of Appeals

301 Fannin, Suite 245
Houston, Texas 77002

Wednesday, September 18, 2024

Willis Floyd Wiley
258 Cherry Creek Drive
Shepherd, TX 77371
* DELIVERED VIA E-MAIL *

RE: Court of Appeals Number: 14-24-00658-CV
Trial Court Case Number: 2024-15203

Style: Willis Floyd Wiley

v.

Houston Texas Assistant Police Chief Kevin Deese, and Houston Texas
Assistant Police Chief Ernest Garcia

The docketing statement for appellant(s) was required to be filed within ten days from the date the notice of appeal was filed in the trial court. No docketing statement has been filed by appellant(s). See Tex. R. App. P. 32.1. Appellant(s) must promptly file their docketing statement with this court upon receipt of this notice. A copy of the docketing statement can be accessed at https://www.txcourts.gov/media/1457114/cv_docketingstatement-091223.pdf.

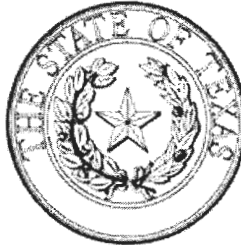
Sincerely,

A handwritten signature in cursive script that reads "Deborah M. Young".

Deborah M. Young,
Clerk of the Court

Exhibit-5**Justices**

KEN WISE
KEVIN JEWELL
FRANCES BOURLIOT
JERRY ZIMMERER
CHARLES A. SPAIN
MEAGAN HASSAN
MARGARET "MEG" POISSANT
RANDY WILSON

**Chief Justice**

TRACY CHRISTOPHER

Clerk

DEBORAH M. YOUNG, CLERK OF THE
COURT
PHONE 713-274-2800

Fourteenth Court of Appeals

301 Fannin, Suite 245
Houston, Texas 77002

Monday, October 7, 2024

Harris County, District Clerk, Civil Division
Harris County District Clerk - Civil
PO Box 4651
Houston, TX 77210-4651
* DELIVERED VIA E-MAIL *

Dani Bradberry
City of Houston
900 Bagby
4th Floor
Houston, TX 77002
* DELIVERED VIA E-MAIL *

Willis Floyd Wiley
258 Cherry Creek Drive
Shepherd, TX 77371
* DELIVERED VIA E-MAIL *

RE: Court of Appeals Number: 14-24-00658-CV
Trial Court Case Number: 2024-15203

Style: Willis Floyd Wiley

v.

Houston Texas Assistant Police Chief Kevin Deese, and Houston Texas
Assistant Police Chief Ernest Garcia

Please be advised that on this date, the clerk's record has been received and filed. ***If not previously paid***, the appellant's court cost fee is now due. Please pay all court costs electronically by utilizing the Court's e-filing service. If the clerk's record is incomplete, appellant or any other party may seek to supplement the record. Tex. R. App. P. 34.6(d). **If there is no reporter's record or the reporter's record has already been filed, appellants brief is due 30 days (20 days in accelerated appeals) from the date of this notice.**

Sincerely,

/s/ Christle Herrera
Deputy Clerk

Exhibit - 6

FILE COPY

Justices

KEN WISE
KEVIN JEWELL
FRANCES BOURLIOT
JERRY ZIMMERER
CHARLES A. SPAIN
MEAGAN HASSAN
MARGARET "MEG" POISSANT
RANDY WILSON

**Fourteenth Court of Appeals**

301 Fannin, Suite 245
Houston, Texas 77002

Chief Justice

TRACY CHRISTOPHER

Clerk

DEBORAH M. YOUNG, CLERK OF THE
COURT
PHONE 713-274-2800

Thursday, October 24, 2024

Dani Bradberry
City of Houston
900 Bagby
4th Floor
Houston, TX 77002
* DELIVERED VIA E-MAIL *

Willis Floyd Wiley
258 Cherry Creek Drive
Shepherd, TX 77371
* DELIVERED VIA E-MAIL *

William Craft Hughes
City of Houston Attorney's Office
900 Bagby, 4th Floor
Houston, TX 77002
* DELIVERED VIA E-MAIL *

RE: Court of Appeals Number: 14-24-00658-CV
Trial Court Case Number: 2024-15203

Style: Willis Floyd Wiley

v.

Houston Texas Assistant Police Chief Kevin Deese, and Houston Texas
Assistant Police Chief Ernest Garcia

The record before this court contains no appealable order. The appeal is subject to being dismissed without further notice on the court's own motion for want of jurisdiction unless any party files a response on or before **November 4, 2024**, showing meritorious grounds for continuing the appeal.

Sincerely,

/s/ Deborah M. Young, Clerk

*Exhibit - 7***Justices**

KEN WISE
KEVIN JEWELL
FRANCES BOURLIOT
JERRY ZIMMERER
CHARLES A. SPAIN
MEAGAN HASSAN
MARGARET "MEG" POISSANT
RANDY WILSON

**Chief Justice**

TRACY CHRISTOPHER

Clerk

DEBORAH M. YOUNG, CLERK OF THE
COURT
PHONE 713-274-2800

Fourteenth Court of Appeals

301 Fannin, Suite 245
Houston, Texas 77002

Wednesday, October 30, 2024

Dani Bradberry
City of Houston
900 Bagby
4th Floor

Houston, TX 77002

* DELIVERED VIA E-MAIL *

Willis Floyd Wiley
258 Cherry Creek Drive
Shepherd, TX 77371

* DELIVERED VIA E-MAIL *

William Craft Hughes
City of Houston Attorney's Office
900 Bagby, 4th Floor
Houston, TX 77002

* DELIVERED VIA E-MAIL *

RE: Court of Appeals Number: 14-24-00658-CV
Trial Court Case Number: 2024-15203

Style: Willis Floyd Wiley v. Houston Texas Assistant Police Chief Kevin Deese,
and Houston Texas Assistant Police Chief Ernest Garcia

Please be advised that on this date in the above cause **APPELLANT'S** brief
was received and filed, **ORAL ARGUMENT WAIVED**. **Appellee's brief is due on or
before Monday, December 2, 2024.**

Sincerely,

/s/ Brittney Moore
Deputy Clerk



14



Compose



- Inbox** 5,491
- Starred**
- Snoozed**
- Sent**
- More**

Labels

- More**

Wiley v. Houston; Appeal No. 14-24-00658-CV Inbox x

Hughes, Craft - LGL <Craft.Hughes@houstontx.gov>
to me, Bruce

Good afternoon Mr. Wiley,

We are filing a motion to dismiss this appeal because of a lack of jurisdiction and untimely notice. The rule know if you are opposed or unopposed to the motion to dismiss we will be filing.

Thank you,

Craft Hughes
Senior Asst. City Attorney
City Attorney's Office
900 Bagby, 4th Floor
Houston, TX 77002
(832) 393-6421
craft.hughes@houstontx.gov

Yes, I approve.

Yes, please proceed.

Absolutely not.

Reply

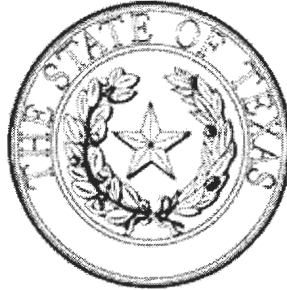
Reply all

Forward



Exhibit-9

Dismissed and Memorandum Opinion filed December 17, 2024



In The

Fourteenth Court of Appeals

NO. 14-24-00658-CV

WILLIS FLOYD WILEY, Appellant

V.

**HOUSTON, TEXAS ASSISTANT POLICE CHIEF KEVIN DEESE AND
HOUSTON, TEXAS ASSISTANT POLICE CHIEF ERNEST GARCIA,
Appellees**

**On Appeal from the 190th District Court
Harris County, Texas
Trial Court Cause No. 2024-15203**

MEMORANDUM OPINION

This is an attempted appeal from the denial of a motion for summary judgment after the case was removed to federal court and subsequently dismissed by the federal court. Appellees have filed a motion to dismiss this appeal for lack of subject-matter jurisdiction. We agree with appellees and dismiss the appeal.

On March 8, 2024, appellant filed his original petition in state court.

Appellees filed a notice of removal and removed the case to federal court on June 21, 2024. On July 26, 2024, Hon. Lee H. Rosenthal entered a final judgment dismissing the case with prejudice.

Despite the removal, appellant filed a motion for summary judgment in state court on July 5, 2024. On August 9, 2024 the 190th District Court signed an order denying appellant's motion for summary judgment stating that it lacks jurisdiction to hear any motions in this case. We agree the trial court lacked jurisdiction and note that the order signed was void. Once removal is effected, "the State court shall proceed no further unless and until the case is remanded." 28 U.S.C. § 1446(d); *see Meyerland Co. v. F.D.I.C.*, 848 S.W.2d 82, 83 (Tex. 1993) (order) (order entered after removal is void).

Accordingly, because this case was never remanded from federal court and the underlying order is void, we lack subject-matter jurisdiction over this appeal. The appeal is dismissed.

PER CURIAM

Panel consists of Justices Zimmerer, Spain, and Hassan.

Exhibit 9

December 17, 2024



JUDGMENT

The Fourteenth Court of Appeals

WILLIS FLOYD WILEY, Appellant

NO. 14-24-00658-CV

V.

HOUSTON TEXAS ASSISTANT POLICE CHIEF KEVIN DEESE, AND
HOUSTON TEXAS ASSISTANT POLICE CHIEF ERNEST GARCIA, Appellees

Today the court heard its own motion to dismiss the appeal from the order signed by the court below on August 9, 2024. Having considered the motion and found it meritorious, we order the appeal **DISMISSED**.

We further order this decision certified below for observance.

Judgment Rendered December 17, 2024.

Panel Consists of Justices Zimmerer, Spain, and Hassan. Opinion delivered Per Curiam.

Ex h. b. F 9

FILE COPY

Justices

KEN WISE
KEVIN JEWELL
FRANCES BOURLIOT
JERRY ZIMMERER
CHARLES A. SPAIN
MEAGAN HASSAN
MARGARET "MEG" POISSANT
RANDY WILSON



Fourteenth Court of Appeals

301 Fannin, Suite 245
Houston, Texas 77002

Chief Justice

TRACY CHRISTOPHER

Clerk

DEBORAH M. YOUNG, CLERK OF THE
COURT
PHONE 713-274-2800

Tuesday, December 17, 2024

NOTICE OF OPINION DISTRIBUTION

Harris County, District Clerk, Civil Division
Harris County District Clerk - Civil
PO Box 4651
Houston, TX 77210-4651
* DELIVERED VIA E-MAIL *

Dani Bradberry
City of Houston
900 Bagby
4th Floor
Houston, TX 77002
* DELIVERED VIA E-MAIL *

William Craft Hughes
City of Houston Attorney's Office
900 Bagby, 4th Floor
Houston, TX 77002
* DELIVERED VIA E-MAIL *

Presiding Judge, Eleventh Administrative Judicial
Region
Honorable Susan Brown
Presiding Judge, Eleventh Administrative Judicial
Region
301 Fannin St.
Houston, TX 77002
* DELIVERED VIA E-MAIL *

Willis Floyd Wiley
258 Cherry Creek Drive
Shepherd, TX 77371
* DELIVERED VIA E-MAIL *

Judge, 190th District Court
Harris County Civil Courthouse
201 Caroline, 12th Floor
Houston, TX 77002
* DELIVERED VIA E-MAIL *

RE: Court of Appeals Number: 14-24-00658-CV
Trial Court Case Number: 2024-15203

Style: Willis Floyd Wiley

v.

Houston, Texas Assistant Police Chief Kevin Deese and Houston, Texas Assistant Police Chief Ernest Garcia

Please be advised the Court today issued an opinion which **DISMISSED** the above cause.

Texas Rule of Appellate Procedure 49 dealing with motions for rehearing and motions for en banc consideration has been revised effective October 1, 2021. A complete copy of the revised rules can be located at [TJB | 14th COA | News | TRAP 49 Deadlines Revised effective October 1, 2021 \(txcourts.gov\)](https://www.txcourts.gov/14thcoa/).

You may obtain a copy of the Court's opinion and judgment at <http://www.txcourts.gov/14thcoa/>. On the request of any entity listed in Rule 48.1, a paper copy of the opinion will be mailed to that entity.

Sincerely,

/s/ Juliana Ramirez,
Deputy Clerk

VIII

Prayer

Wherefore permission is considered the Appellant pray, that the Honorable Court after reviewing said Notice of Removal, grant the Appellant Notice of Removal in this matter

Respectfully Submitted

Willis F. Wiley

Willis Floyd Wiley

258 Cherry Creek Dr.

Shepherd TX. 77371

832-756-18000

wileywillis70@gmail.com

IX

Certificate of Service

I Willis Floyd Wiley Certify that a true and correct copy of said Notice of Removal has been hand delivered to the clerk's office of the United States District Court for the Southern District of Texas Houston Division located at 515 Risk St, Houston TX. 77002 on this the 10 of January 2025

Willis F. Wiley

Signature